IN THE HIGH COURT OF JUDICATURE AT BOMBAY

CRIMINAL APPELLATE JURISDICTION

Criminal Writ Petition No.607 of 2007

Ishwarchand Brijnath Tiwari. .. .. Petitioner

v/s.

State of Maharashtra & 4 ors. .. .. Respondents

Mr.M.P. Mishra with Mr.R.P. Singh for Petitioner.

Ms.Aruna Pai, APP for Respondent Nos.1 to 4.

Mr.Yogi Joshi i/by Mr.V.J. Brahmbhatt for Respondent No.5.

Ms.Jagruti Kanubhai Brahmbhatt present and interviewed today.

CORAM : DR.S. RADHAKRISHNAN &

SMT.ROSHAN DALVI, JJ.

Dated : 16th August, 2007

P.C. :

1. The Petitioner has prayed for a writ of habeas corpus against Respondent Nos.2, 3 and 4 to produce the Petitioner's wife Smt.Jagruti Ishwarchand Tiwari and to take appropriate action against Respondent No.4 on the basis of a complaint lodged by him. Respondent No.5 is the father of

the Petitioner's wife.

2. Respondent No.5 has produced his daughter, who is stated to be the Petitioner's wife, before the Court.

3. We have interviewed Smt.Jagruti Ishwarchand Tiwari. She has stated before us that she does not know the Petitioner and has nothing to do with him. She is married to another man. Her marriage was performed on 29.4.2007. She has produced the marriage invitation card and 4 photographs showing her marriage ceremony. She states that there is no question of her being handed over to the Petitioner.

4. The Counsel for the Petitioner states that she is the Petitioner's wife and the Petitioner is entitled to get her custody as his duly married wife. Smt.Jagruti Ishwarchand Tiwari is 23 years of age. She is entitled to decide whether or not she desires to be with the Petitioner. We have ascertained her wishes. Since she does not desire to be with the Petitioner and has stated that she does not even know the Petitioner and is already married, the writ, prayed for by the Petitioner, cannot be granted to him.

5. Ms.Pai, the learned APP, states that pursuant to an earlier order, Respondent Nos.1 to 4 have made inquiries and have, *inter alia*, recorded the statement of the Petitioner in which he has admitted that he has been married earlier and has a 9-year old daughter.

6. No case for grant of the writ of habeas corpus is made out. The Petition is dismissed. Rule stands discharged accordingly. No order as to costs.

(**DR.S. RADHAKRISHNAN, J.)**

(ROSHAN DALVI, J.)